



UNIVERSITY OF
TORONTO
FACULTY OF LAW




ADVANCED BANKRUPTCY LAW
UNIVERSITY OF TORONTO/ OSGOODE HALL LAW SCHOOL
WINTER 2008

SUPPLEMENTARY MATERIALS
VOL. I

PROFESSOR STEPHANIE BEN-ISHAI
PROFESSOR ANTHONY DUGGAN

These materials were prepared with the assistance of Virginia Torrie, Osgoode 2009.
They are solely for the use of students enrolled in Advanced Bankruptcy Law, Winter
2008.



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ADVANCED BANKRUPTCY LAW CLASS SCHEDULE

1.	Friday, January 11	Introduction	
2.	Friday, January 18	Partly Performed Contracts	
3.	Friday, January 25	Derivatives	
4.	Friday, February 1	Priorities	
5.	Friday, February 8	Review of Pre-Bankruptcy Transactions	
6.	Friday, February 15	Labour Issues	
	Friday, February 22	U of T Reading Week	No Class
	Friday, February 29	Osgoode Reading Week	No Class
7.	Friday, March 7	Debtor-in-Possession Financing	
8.	Friday, March 14	Corporate Governance	
	Friday, March 21	Good Friday	No Class
9.	Friday, March 28	Cross-Border Insolvencies	
10.	Friday, April 4	Consumer Bankruptcies	

ADVANCED BANKRUPTCY LAW

COURSE OUTLINE

Class 1, Friday January 11: Introduction

Reading: B-I & D, Chapter 1

Class 2, Friday January 18: Partly Performed Contracts

Reading: B-I & D, Chapter 2

Cases for discussion:

- *Doman Industries Ltd., Re*, 2004 BCSC 733, B.C.J. No. 1149 (WL).
- *Dylex Ltd., Re*, [1995] O.J. No. 595, 31 C.B.R. (3d) 106, (Sup. Ct.) (WL).
- *Blue Range Resource Corp., Re*, 1999 ABQB 1038, A.J. No. 788 (WL).
- *T Eaton Co., Re*, [1999] O.J. No. 4216, 14 C.B.R. (4th) 288 (WL).
- *Erin Features No.1 Ltd., Re*, [1991] B.C.J. No. 3330 (S.C.) (QL).
- *Lubrizol Enterprises v. Richmond Metal Finishers Inc.*, 756 F.2d 1043, 226 U.S.P.Q. 961 (WL).
- *Armadale Properties Ltd. v. 700 King Street (1997) Ltd.*, [2001] O.J. No. 1727 (Sup. Ct.) (QL).

Class 3, Friday January 25: Derivatives

Reading: S-B & D, Chapter 3.

Guest: Margaret Grottenthaler B.C.L., LL.B., Partner, Stikeman Elliot LLP

Cases for discussion

- *Blue Range Resource Corp., Re*, 2001 WL 34065415 (Alta. Q.B.), CarswellAtla 1949 (WL).
- *Androscoggin Energy LLC, Re*, 75 O.R. (3d), [2005] 552, O.J. No. 592 (C.A.) (QL).
- *Calpine Energy Ltd., Re*, 2006 ABQB 743, A.J. No. 1273 (QL).
- *Capline Energy Ltd., Re*, 2007 ABCA 266, A.J. No. 917 (QL).
- *North American Steamships Limited, Re*, 2007 BCSC 267, B.C.J. No. 390 (QL).

Class 4, Friday February 1: Priorities

Reading:

- S-B & D, Chapter 5

(i) Unperfected Security Interests:

- *TRG Services Inc., Re*, (2006) 26 C.B.R. (5th) 203, 11 P.P.S.A.C. (3d) 139 (On. Sup. Ct.) (WL).
- *Ivaco Inc., Re* (2006), 275 D.L.R. (4th) 132 (O.C.A.) (QL).
- Anthony Duggan, Unperfected Security Interests in Insolvency Proceedings [unpublished].

(ii) Subordination of Equity Claims:

- *Blue Range Resource Corp., Re*, 2000 ABQB 4, 15 C.B.R. (4th) 169 (WL).
- *Menegon v. Philips Services Corp.*, [1999] O.J. No. 4080 (Sup. Ct.) (QL).

Janis Sarra, "From Subordination to Parity: An International Comparison of Securities Law Claims in Insolvency Proceedings" [unpublished].

Class 5, Friday February 8: Review of Pre-Bankruptcy Transactions

Reading: S-B & D, Chapters 6 and 7

Guest: Tamara Buckwold LL.B., LL.M., Professor, University of Alberta, Faculty of Law (by video to talk about ULCC project)

Cases for discussion:

- *Canada Wide Fruit Wholesalers Inc. (Trustee of) v. Hapco Farms Inc.*, [1998] Q.J. No. 1527 (C.A.) (QL).
- *St Anne-Nackawic Pulp Co., Re*, 2005 NBCA 55, 255 D.L.R. (4th) 137 (WL)
- *Royal Bank of Canada v. Whalley* (2002), 59 O.R. (3d) 529, [2002] O.J. No. 2028 (C.A.) (QL).
- *Standard Trustco Ltd. (Trustee of) v. Standard Trust Co.* (1995)), 26 O.R. (3d) 1, [1995] O.J. No. 3151 (C.A.) (QL).

Class 6, Friday February 15: Labour Issues

Reading:

- S-B & D, Chapter 4
- Kevin Davis & Jacob Ziegel, “Assessing the Economic Impacts of a New Priority Scheme for Unpaid Wage Earners and Suppliers of Goods and Services” (1998) Corporate Law Policy Directorate online:
<http://strategis.ic.gc.ca/pics/cl/unpaid_ws.pdf> at 11-15.

Guest: David C. Baird B.A., B.A. (Hons), Q.C., Counsel, Fasken Martineau DuMoulin LLP

Cases for discussion:

- *Syndicat nationale de l'amiante d'Asbestos inc. v. Jeffrey Mines Inc.*, [2003] Q.J. No. 264 (C.A.) (QL).
- *GMAC Commercial Credit Corp. - Canada v. T.C.T. Logistics Inc.*, 2006 SCC 35, 2 S.C.R. 123 (QL).

[No classes Friday, February 22 (U of T Reading Week) or Friday, February 29 (Osgoode Reading Week)]

Class 7, Friday March 7: Debtor-in-Possession Financing

Reading: S-B & D, Chapter 9

Guest: Michael B. Rotsztein B.Comm. (Hons), LL.B., Partner, Tory's LLP

Cases for discussion:

- *Skydome Corp. v. Ontario*, [1998] O.J. No. 6547, 16 C.B.R. (4th) 118 (Ct. J. Gen. Div. (C.L.)) (QL).
- *Skydome Corp. v. Ontario*, [1998] O.J. No. 6548, 16 C.B.R. (4th) 125 (Ct. J. Gen. Div. (C.L.)) (QL).
- *Royal Oak Mines Inc., Re*, 1999 CarswellOnt 988, 1999 WL 33185546 (Ont. Gen. Div. (C.L.)) (WL).
- *Royal Oak Mines Inc., Re*, [1999] O.J. No. 709, 6 C.B.R. (4th) 314 (Ont. Gen. Div. (C.L.)) (WL).
- *Royal Oak Mines Inc., Re*, [1999] O.J. No. 864, 7 C.B.R. (4th) 293 (Ont. Gen. Div. (C.L.)) (WL).
- *General Electric Capital Canada Inc. v. Euro United Corp.*, [2001] O.J. 896 (Sup. Ct. J. (C.L.)) (QL).

Class 8, Friday March 14: Corporate Governance

Reading:

- S-B & D, Chapter 10
- Rostom, Kent and Weerasooriya, “Deepening Insolvency: Will the U.S. Theory be Adopted in Canada?” (2007) *McMillan Binch Mendelsohn Restructuring Bulletin* (June).
- David C. Thompson, “A Critique of Deepening Insolvency” (2007) 12 *Stan. J.L. Bus. & Fin.* 536-552.
- Lynn LoPucki, “A Team Production Theory of Bankruptcy Reorganization” (2004) 57 *Vand. L. Rev.* 741.

Guest: Andrew J.F. Kent B.A., J.D., CEO, Chair, Debt Products and Restructuring, McMillan Binch Mendelsohn LLP

Cases for discussion:

- *Exide Tech. Inc., Re*, 299 B.R. 732 (Bkrcty.D.Del., 2003) (WL).
- *Peoples Department Stores Inc. (Trustee of) v. Wise*, 2004 SCC 68, 3 S.C.R. 461 (QL).
- *Stelco Inc., Re*, [2006] O.J. No. 593 (On. Sup. Ct. J. (C.L.)), Farley J (QL).
- *Stelco Inc., Re*, (2005), 253 D.L.R. (4th) 109 (O.C.A.) (QL).

[No class Friday, March 21 (Good Friday)]

Class 9, Friday March 28: Cross-Border Insolvencies

Reading:

- S-B & D, Chapter 11
- Christian Charron, “Whose Interests? Corporate Groups and the UNCITRAL Model Law on International Insolvencies” [unpublished].

Guest: Stephen J. Lubben B.A., J.D., LL.M., Professor, Seton Hall Law School

Cases for discussion:

- *Singer Sewing Machine Co. of Canada Ltd. (Re)*, 2000 ABQB 116, A.J. No. 212 (QL).
- *Babcock & Wilcox Canada Ltd. (Re)*, [2000] O.J. No. 786 (Sup. Ct. J. (C.L.)) (QL).
- *Re Bialek*, 18 O.R. (3d) 462, [1994] O.J. No. 1016 (Ct. J. Gen. Div.) (QL).

Class 10, Friday, April 4: Consumer Bankruptcies

Reading:

- S-B & D, Chapters 13, 14 and 15
- Charles Tabb, “The Top Twenty Issues in the History of Consumer Bankruptcy” (2007) U. Ill. L. Rev. 9.

Guest: John A.E. Pottow A.B., J.D., Assistant Professor, University of Michigan, Faculty of Law

Guest speakers subject to change

